

**B. Draft Title VI Guidance for EPA Assistance Recipients
Administering Environmental Permitting Programs
(Draft Recipient Guidance)**

I. INTRODUCTION

- A. Purpose of the Recipient Guidance**
- B. Title VI of the Civil Rights Act of 1964, as Amended**
- C. Coordination with Draft Revised Investigation Guidance**
- D. Stakeholder Involvement**
- F. Scope and Flexibility**
- G. Title VI and Tribes**

II. TITLE VI APPROACHES AND ACTIVITIES

A. Title VI Approaches

- 1. Comprehensive Approach*
- 2. Area-Specific Approaches*
- 3. Case-by-Case Approach*

B. Title VI Activities

- 1. Train Staff*
- 2. Encourage Meaningful Public Participation and Outreach*
- 3. Conduct Impact and Demographic Analyses*
 - a. Availability of Demographic Data and Exposure Data**
 - b. Potential Steps for Conducting Adverse Disparate Impact Analyses**
 - c. Availability of Tools and Methodologies for Conducting Adverse Impact Analyses**
 - d. Relevant Data**
 - e. Resources for Assessing Significance of Impact**
 - f. Conducting Disparity Analyses and Assessing Significance**
- 4. Encourage Intergovernmental Involvement*
- 5. Participate in Alternative Dispute Resolution*
- 6. Reduce or Eliminate Alleged Adverse Disparate Impact*
- 7. Evaluate Title VI Activities*

C. Due Weight

III. CONCLUSION

IV. ACRONYMS AND ABBREVIATIONS

V. REFERENCES

GLOSSARY OF TERMS

I. INTRODUCTION

A. Purpose of the Recipient Guidance

This draft guidance is written for the recipients¹ of U.S. Environmental Protection Agency (EPA) financial assistance that implement environmental permitting programs (“you”). It provides a framework to help you address situations that might otherwise result in the filing of complaints alleging violations of Title VI of the Civil Rights Act of 1964, as amended (Title VI) and EPA’s Title VI implementing regulations.² In particular, it provides a framework designed to improve your existing programs or activities and reduce the likelihood or necessity for persons to file Title VI administrative complaints with EPA alleging either: (1) discriminatory human health or environmental effects resulting from the issuance of permits; or (2) discrimination during the permitting public participation process. Cooperative efforts between permitting agencies and communities, whether or not in the context of Title VI-related approaches, frequently offer the best means of addressing potential problems.

B. Title VI of the Civil Rights Act of 1964, as Amended

Title VI prohibits discrimination based on race, color, or national origin under any program or activity of a Federal financial assistance recipient. Title VI itself prohibits intentional discrimination. In addition, Congress intended that its policy against discrimination by recipients of Federal assistance be implemented, in part, through administrative rulemaking.³ Title VI “delegated to the agencies in the first instance the complex determination of what sorts of disparate impacts upon minorities constituted significant social problems, and were readily enough remediable, to warrant altering the practices of the Federal grantees that had produced those impacts.”⁴

EPA issued Title VI implementing regulations (*see* 40 CFR part 7) in 1973 and revised them in 1984.⁵ Under EPA’s Title VI implementing regulations, you are prohibited from using “criteria or methods of administering its program which have the effect of subjecting individuals

¹ The underlined terms are defined or explained in the attached Glossary.

² Civil Rights Act of 1964, Public Law 88-352, 78 Stat. 241 (codified as amended in scattered sections of 42 U.S.C.).

³ 42 U.S.C. 2000d-1.

⁴ *Alexander v. Choate*, 469 U.S. 287, 292-94 (1985).

⁵ 38 FR 17968 (1973), *as amended* by 49 FR 1656 (1984) (codified at 40 CFR part 7).

to discrimination because of their race, color, [or] national origin.”⁶ As a result, you may not issue permits that are intentionally discriminatory or have a discriminatory effect based on race, color, or national origin.

When you applied for EPA financial assistance, EPA’s Title VI implementing regulations required that you submit an assurance with your application that you will comply with the requirements of EPA’s Title VI implementing regulations with respect to your programs or activities. When EPA approves an application for EPA assistance and you receive the EPA funds, you accept the obligation of your assurance to comply with EPA’s Title VI implementing regulations. The primary means of enforcing compliance with Title VI is through voluntary compliance agreements. Fund suspension or termination is a means of last resort.

Executive Order 12250 requires agencies to issue appropriate implementing directives, either in the form of policy guidance or regulations that are consistent with requirements proscribed by the Attorney General.⁷ Also, the number of administrative complaints filed with EPA alleging discrimination prohibited under Title VI and EPA’s Title VI implementing regulations has increased over the past several years. The growing number of complaints and the and requests of state and local agencies for guidance, provided the impetus to develop this draft guidance. The guidance provides you with recommendations on individual activities and more comprehensive approaches designed to identify and resolve circumstances that may lead to complaints being filed with EPA under Title VI.

C. Coordination with Draft Revised Investigation Guidance

Along with the *Draft Recipient Guidance*, EPA is concurrently issuing the *Draft Revised Guidance for Investigating Title VI Administrative Complaints Challenging Permits (Draft Revised Investigation Guidance)*. The *Draft Revised Investigation Guidance* describes the framework for how EPA’s Office of Civil Rights (OCR) plans to process Title VI administrative complaints filed with EPA. Once finalized, the *Draft Revised Investigation Guidance* will replace the *Interim Guidance for Investigating Title VI Administrative Complaints Challenging Permits (Interim Guidance)* issued in February 1998. The *Draft Revised Investigation Guidance* and the *Draft Recipient Guidance* were developed concurrently to ensure consistency. Furthermore, each draft Title VI guidance document references appropriate sections of the other.

The attached *Summary of Key Stakeholder Issues Concerning EPA Title VI Guidance* document provides an additional discussion that addresses questions and concerns expressed in comments the Agency has received on the issue of Title VI guidance.

⁶ 40 CFR 7.35(b).

⁷ Exec. Order No. 12250, 45 FR 72995 (1980) (section 1-402). The head of each Federal agency is required to ensure compliance with Executive Orders, to the extent permitted by existing law. Executive Orders are signed by the President of the United States.

D. Stakeholder Involvement

To ensure stakeholder involvement in the development of the *Draft Recipient Guidance*, EPA Administrator Carol M. Browner established a Title VI Implementation Advisory Committee (Title VI Advisory Committee) under the National Advisory Council for Environmental Policy and Technology (NACEPT) in March 1998. The Title VI Advisory Committee was comprised of representatives of communities, environmental justice groups, state and local governments, industry, and other interested stakeholders. The EPA asked the committee to review and evaluate existing techniques that EPA funding recipients, such as state and local environmental permitting agencies, may use to administer environmental permitting programs in compliance with Title VI. The EPA also asked the committee to make recommendations to help recipients of EPA financial assistance design activities or approaches that will address Title VI concerns early in the permit process.

The core components of the *Draft Recipient Guidance* are based, in part, on the April 1999, *Report of the Title VI Implementation Advisory Committee: Next Steps for EPA, State, and Local Environmental Justice Programs*. The report is available via the OCR Web site at <http://www.epa.gov/civilrights/t6faca.htm>. EPA also considered information from several other sources including:

- public comments on the *Interim Guidance* received by OCR;
- recommendations and feedback provided to EPA staff during meetings, over the past 18 months, with representatives of communities (including environmental justice organizations), representatives of state and local governments, representatives of industry, and other interested stakeholders;
- available descriptions of state environmental justice programs; and
- the Environmental Council of States (ECOS) October 9, 1998, draft document entitled *Proposed Elements of State Environmental Justice Programs*.

E. EPA's Guiding Principles for Title VI Recipient Guidance

In implementing Title VI and developing this draft guidance, EPA adheres to the following principles⁸:

- All persons regardless of race, color, or national origin are entitled to a safe and healthful environment.
- Strong civil rights enforcement is essential.
- Enforcement of civil rights laws and environmental laws are complementary, and can be achieved in a manner consistent with sustainable economic development.

⁸ The guiding principles were adapted, in part, from the consensus principles identified by the Title VI Implementation Advisory Committee under EPA's National Advisory Council for Environmental Policy and Technology.

- Potential adverse cumulative impacts from stressors should be assessed, and reduced or eliminated wherever possible.
- Research efforts by EPA and state and local environmental agencies into the nature and magnitude of exposures, stressor hazards, and risks are important and should be continued.
- Decreases in environmental impacts through applied pollution prevention and technological innovation should be encouraged to prevent, reduce, or eliminate adverse disparate impacts.
- Meaningful public participation early and throughout the decision-making process is critical to identify and resolve issues, and to assure proper consideration of public concerns.
- Early, preventive steps, whether under the auspices of state and local governments, in the context of voluntary initiatives by industry, or at the initiative of community advocates, are strongly encouraged to prevent potential Title VI violations and complaints.
- Use of informal resolution techniques in disputes involving civil rights or environmental issues yield the most desirable results for all involved.
- Intergovernmental and innovative problem-solving provide the most comprehensive response to many concerns raised in Title VI complaints.

F. Scope and Flexibility

The statements in this document are intended solely as guidance. This document is not intended, nor can it be relied upon, to create any rights or obligations enforceable by any party in litigation with the United States. This guidance may be revised to reflect changes in EPA's approach to implementing Title VI. In addition, this guidance does not alter in any way, a regulated entity's obligation to comply with applicable environmental laws.

This guidance suggests a flexible framework for a Title VI approach and individual Title VI activities. EPA recognizes that a "one-size-fits-all" Title VI approach will not adequately address all your needs. Recipients may have different Title VI concerns in communities within their jurisdiction, different amounts of resources, and different organizational structures. You may choose the activities or approaches that are most relevant to address your needs. EPA also recognizes that some of you have already begun to address Title VI concerns through your existing programs. Therefore, this guidance:

- presents you with a menu of possible options from which you may choose to address Title VI concerns;
- provides suggestions to those of you who choose to develop formal Title VI approaches or to amend your permit process to include or revise Title VI considerations without developing formal Title VI approaches; and

- provides flexibility for you, if you choose to broaden the scope of your Title VI approaches or activities to improve other areas, such as enforcement or hazardous waste clean-up.

While this draft guidance is intended to focus on issues related to permitting, you may also consider developing proactive approaches to promote equality in monitoring and enforcement of environmental laws within your jurisdiction.

G. Title VI and Tribes

The applicability of Title VI and EPA's implementing regulations to Federally-recognized tribes will be addressed in a separate document because the subject involves unique issues of Federal Indian law.

II. TITLE VI APPROACHES AND ACTIVITIES

The following discussion provides guidance to you on the types of activities and approaches that EPA believes you may wish to consider adopting and implementing as part of a strategy to address Title VI-related claims and issues that arise in the environmental permitting context. Identifying and resolving these concerns early in the permitting process will likely reduce the number of Title VI complaints filed with EPA and may also lead to improvements in public participation processes, as well as public health and environmental benefits. You are not required to adopt such activities or approaches, but outcomes that result from the activities or approaches may be considered in the analysis of Title VI complaints that relate to your programs, activities, or methods of administration. You may choose to select one or more of the activities described in section II.B. below, implement some of the more comprehensive approaches described in section II.A., or develop and implement approaches or activities not listed in this guidance that would likely address potential Title VI issues.

A. Title VI Approaches

As a recipient, you must decide which activities or techniques are most relevant to address your needs. You may already have begun to address Title VI concerns through your existing programs and may have different amounts of resources or different types of organizational structures from other recipients. There are several possible approaches described below; however, they are not intended to represent all possible approaches you may want to adopt. It is also important to note that the approaches described below are not mutually exclusive. You can combine activities and approaches described below to address a range of potential issues that might result in Title VI complaints. In other words, if you implement an area-specific approach, you may also want to develop a method to identify and address Title VI concerns related to a specific permit that is not covered by an area-specific agreement.

1. Comprehensive Approach

You may want to adopt a broad approach that will improve your existing permitting process, rather than addressing Title VI concerns on a case-specific or area-specific basis, through an alternative process. You may elect to adopt a comprehensive approach that integrates all of the Title VI activities described below into your existing permitting process. EPA expects that such comprehensive approaches will offer recipients the greatest likelihood of adequately addressing Title VI concerns, thereby minimizing the likelihood of complaints.

2. Area-Specific Approaches

You may choose to develop an approach to identify geographic areas where adverse disparate health impacts or other potential Title VI concerns (*e.g.*, where translation of documents may be necessary) may exist. Collaboration with communities and other appropriate stakeholders to develop the criteria used to identify the geographic areas will be an important element of the approach. Once the areas are identified, you would work with the affected communities and stakeholders to develop an agreement to reduce and eliminate adverse disparate impacts or other Title VI concerns in those specific areas.

For example, if a recipient, in collaboration with communities and other appropriate stakeholders, identifies a section of a city as an area where permitted emissions are contributing to discriminatory health effects on African Americans. The recipient then might convene a group of stakeholders with the ability to help solve the identified lead problem, including owners of facilities with lead emissions, other state and local government agencies, affected community members, and non-governmental organizations. The group may develop an agreement where each party agrees to particular actions that will eliminate or reduce the adverse lead impacts in that specific area.

Another example might be an area-specific agreement that establishes a ceiling on pollutant releases with a steady reduction in those pollutants over time. The period of time over which those reductions should occur will likely vary with a number of factors, including the magnitude of the adverse disparate impact, the number and types of sources involved, the scale of the geographic area, the pathways of exposure, and the number of people in the affected population. It is worth noting, however, that pre-existing obligations to reduce impacts imposed by environmental laws (*e.g.*, “reasonable further progress” as defined in Clean Air Act section 171(1)) might not be sufficient to constitute an agreement meriting due weight.⁹ Also, area-specific agreements need not be limited to one environmental media (*e.g.*, air emissions), they may also cover adverse disparate impacts in several environmental media (*e.g.*, air and water).

3. Case-by-Case Approach

⁹ See sections V.B.2. of the *Draft Revised Investigation Guidance* (discussing due weight and any subsequent reliance OCR may give in the course of its investigation to area-specific agreements).

For some recipients, permit-specific approaches may also be advisable. You could develop general criteria to evaluate permits that could highlight those permit actions that are likely to raise Title VI concerns. Or, you may focus your efforts on specific permitting actions where Title VI concerns are actually raised and then employ alternative dispute resolution (ADR) techniques for those situations to reduce or eliminate them.¹⁰ You might also be made aware of Title VI concerns in particular permitting actions through any number of means, including, but not limited to, comments received on the permit application, prior work with residents of the area, and other outreach efforts performed by the recipient.

As a recipient, you determine the proper mix and extent of appropriate Title VI activities and approaches. While you are not required to implement the Title VI activities or approaches described in this guidance, you are required to operate your programs in compliance with the non-discrimination requirements of Title VI and EPA's implementing regulations.

For claims and analyses related to disparate impacts, EPA expects that the analysis would generally conform to the analytical framework set forth in the *Draft Revised Investigation Guidance* in order for EPA to accord it due weight.

B. Title VI Activities

As a recipient, you may should consider integrating the following activities into permitting programs to help identify and resolve issues that could lead to the filing of Title VI complaints:

1. *Staff training* - to help you meet your Title VI responsibilities;
2. *Encourage effective public participation and outreach* - to provide permitting and public participation processes that occur early, and are inclusive and meaningful;
3. *Conduct adverse impact and demographic analyses* - to analyze new and existing sources, stressors, and adverse impacts with relevant demographic information, especially potential cumulative adverse impacts, to provide confidence that Title VI concerns are identified and appropriately addressed;
4. *Encourage intergovernmental involvement* - to bring together all agencies and parties that may contribute to identifying and addressing stakeholder concerns to reach innovative and comprehensive resolutions;
5. *Participate in alternative dispute resolution* - to involve both the community and recipient in an informal process to resolve Title VI concerns;
6. *Reduce or eliminate the alleged adverse disparate impact(s)* - to reduce or eliminate identified or potential adverse human health or environmental impacts; and
7. *Evaluate Title VI activities* - to identify progress and areas in need of improvement.

1. Train Staff

¹⁰ See section II.B.5. (discussing ADR).

The success of Title VI activities will depend on your agency staff's knowledge, credibility, and actions. Given the nature of Title VI concerns, a team approach that includes, at a minimum, permitting and community liaison functions may likely be the most effective. Other team members may include staff with specialized knowledge or experience such as risk assessors. You may not necessarily have to hire new staff in order to address Title VI concerns. You may consider using existing staff and training them about Title VI. OCR believes that an effective staff training program may address the following issues:

1. Your Title VI responsibilities, Title VI approaches or activities you have adopted to assist in meeting those responsibilities, and environmental permitting programs;
2. Cultural and community relations sensitization to establish and maintain the trust and mutual respect between you and communities;
3. Skills and techniques to enable your staff to communicate effectively with communities and then relay community concerns to your agency;
4. Exposure, risk, and demographic analysis techniques, cumulative impact assessments, and ongoing technical advances relevant to conducting disparate impact analyses; and
5. Alternative dispute resolution techniques to enable your staff to design and carry out a collaborative and informal process that can help resolve Title VI concerns.

2. Encourage Meaningful Public Participation and Outreach

Early, inclusive, and meaningful public involvement in the permitting process will likely help to reduce the filing of Title VI complaints alleging that the public participation process for a permit was discriminatory. It is possible to have a violation of Title VI or EPA's Title VI regulations based solely on discrimination in the procedural aspects of the permitting process without a finding of discrimination in the substantive outcome of that process, such as discriminatory human health or environmental effects. Likewise, it is possible to have a violation due to discriminatory human health or environmental effects without the presence of discrimination in the public participation process.

An effective public participation process:

- seeks out and facilitates the involvement of individuals who will be potentially affected by permitting decisions;
- ensures that the public is involved early in the process;
- provides participants in the process with the information they need to participate in a meaningful way;
- ensures that public concerns are appropriately considered; and
- communicates to participants in the process how their input was, or was not, used.

More specifically, an effective public participation process is one that:

- Is early and inclusive:
 - Engages the public during the pre-permitting process, as well as during the permitting process, whenever possible;
 - Includes community participants that represent the spectrum of views;
 - Uses communication methods likely to reach the affected community (*e.g.*, insert information with utility bills; place public service announcements on local radio shows; and place notices on bulletin boards in grocery stores, houses of worship, community newspapers, and community centers);
 - Schedules meeting times and places that are convenient for residents who work and those who use public transportation;
 - Schedules meeting places that are accessible to persons with disabilities; and
 - Avoids creating schedule conflicts with other community or cultural events, whenever possible.
- Is meaningful:
 - Uses an open and transparent process;
 - Provides understandable information necessary for effective community participation (*Writing User-Friendly Documents* and other guidance on how to write in plain language are available from the Plain Language Action Network (PLAN) on the Internet at <http://www.plainlanguage.gov>);
 - Provides supplemental technical information (*e.g.*, trend and comparison data, background on types of health effects, concepts of exposure assessment) and technical assistance to make data more meaningful;
 - Takes reasonable steps to communicate,¹¹ in written documents as well as orally, in languages other than English, when appropriate for the community;¹² and

¹¹ A recipient's failure to take reasonable steps to provide a "meaningful opportunity" for limited English speaking individuals to effectively participate in its programs and activities can constitute discrimination prohibited by Title VI. See *Lau v. Nichols*, 414 U.S. 563 (1974). Further, EPA's Title VI regulations state that "[a] recipient shall not use criteria or methods of administering its program which . . . have the effect of defeating or substantially impairing accomplishment of the objective of the program with respect to individuals of a particular race, color, [or] national origin. " 40 CFR 7.35(b).

¹² See DOJ's regulation entitled "Coordination of Enforcement of Non-discrimination in Federally-Assisted Programs," 28 CFR subpart F, specifically section 42.405(d)(1) for a discussion of factors recipients should consider when determining whether translation for limited English speaking populations is necessary.

- Provides clear explanations and reasons for the decisions made with respect to the issues raised by the community.

There are a number of publications describing effective public participation techniques. The publications listed below may provide useful information as you assess your Title VI activities:

- *The Model Plan for Public Participation* developed by the EPA National Environmental Justice Advisory Council, a Federal Advisory Committee to the U.S. EPA. (For more information on the EPA National Environmental Justice Advisory Council, contact the EPA Office of Environmental Justice (OEJ) at 202-564-2515, or visit the OEJ Web site at <http://es.epa.gov/oeca/main/ej/index.html>);
- American Society for Testing and Materials (ASTM) Standard Guide to the Process of Sustainable Brownfields Redevelopment (ASTM Standard E-1984-98). (For more information on this standard, contact ASTM at 610-832-9585. The ASTM Web site location is <http://www.astm.org>);
- *Report of the Title VI Implementation Advisory Committee: Next Steps for EPA, State, and Local Environmental Justice Programs* (Available on line as an Acrobat format pdf file at <http://es.epa.gov/oeca/oej/t6report.pdf>);
- EPA's 1998 *Final Supplemental Environmental Projects Policy* contains information on the public's opportunity to participate in the consideration of Supplemental Environmental Projects (<http://www.epa.gov/oeca/sep/>);
- EPA's 1998 *Guidance for Incorporating Environmental Justice Concerns in EPA's NEPA Compliance Analyses* contains a discussion regarding public participation in Section 4 (pages 39-43) (<http://es.epa.gov/oeca/ofa/ejepa.html>); and
- EPA's 1996 *Resource Conservation and Recovery Act (RCRA) Public Participation Manual* explains how public participation works in the permitting process and also contains useful information for public participation in non-RCRA environmental activities (<http://www.epa.gov/epaoswer/hazwaste/permit/pubpart>).

3. Conduct Impact and Demographic Analyses

The ability to analyze new and existing potentially adverse impacts, together with relevant demographic information concerning receptor populations (*i.e.*, populations that may be exposed to stressors), will often help identify potential Title VI concerns and assist in

appropriately addressing them. Potential and existing impacts may involve a broad spectrum of concerns. Although there is no single place to obtain access to data sources and tools needed to address these concerns, and some are incomplete or still being developed, major assessment tools and data are available. EPA has developed several Web sites that may help identify existing and emerging resources, including the:

- EnviroFacts data warehouse (<http://www.epa.gov/enviro/>);
- Environmental Quality (<http://www.epa.gov/ceis/>);
- Community-Based Environmental Protection (<http://www.epa.gov/ecocommunity/>);
- National Center for Environmental Assessment (<http://www.epa.gov/ncea/>); and
- Superfund risk assessment home page (<http://www.epa.gov/superfund/programs/risk/index.htm>).

a. Availability of Demographic Data and Exposure Data

The availability of information needed to assess the presence or likelihood of adverse impact(s) may vary widely from one geographic location to another. In addition to nationally available data, many states and localities collect and maintain important information concerning sources, stressors and ambient levels. Geographically detailed demographic information (*e.g.*, sub-county level data) is available through the United States Bureau of the Census and commercial sources, but is often limited to decennial census (*e.g.*, 1990) data at the appropriate levels of geographic resolution. Information on sources and stressors is also available for some industries' releases of chemicals in air, land, and soil. However, the databases may only address certain categories of facilities and pollutants, are not of consistent completeness or quality, and may change significantly over time.¹³ To assess accuracy, completeness, and relevance, you may choose to review and evaluate key data. You may also examine other available sources (*e.g.*, those developed by states and localities) for additional important data, and consider collecting additional locally-relevant data.

Some of the information on sources and stressors, which are available in EPA's regulatory program databases, include the following¹⁴:

¹³ For example, the Toxics Release Inventory (TRI) data base has had a number of chemicals added for reporting (and a few deleted) since its inception. Recently, a number of additional facility types have begun reporting, with the first year's data for 1998 expected to be released in Spring 2000. Significantly expanded reporting for small releases of highly toxic and/or persistent chemicals has also recently become effective for reporting year 2000, with the first data release expected in Spring 2002.

¹⁴ Note that OCR does not expect to limit its disparate adverse impact analyses to information in these databases. Data availability will be taken into consideration as OCR decides, on a case-by-case basis, which databases to include in an assessment.

- The Toxic Release Inventory System (TRIS) contains information about more than 650 toxic chemicals that are being used, manufactured, treated, or released into the environment. Manufacturing and other selected facilities (which meet reporting criteria for size and quantities of chemicals) are required to report annually on waste generation, releases and transfers of chemicals to EPA and states (<http://www.epa.gov/enviro/html/tris>);
- The Resource Conservation and Recovery Information System (RCRIS) and Biennial Reporting System (BRS) are national program management and inventory systems of Resource Conservation and Recovery Act (RCRA) hazardous waste handlers (<http://www.epa.gov/epaoswer/hazwaste/data/>);
- RCRIS handlers (including large and small quantity generators; treatment, storage and disposal facilities; and transporters) (http://www.epa.gov/enviro/html/rcris/rcris_overview.html); and
- BRS (data on waste streams from large quantity generators of hazardous waste) (<http://www.epa.gov/enviro/html/brs/index.html>);
- The Comprehensive Environmental Response Compensation and Liability Information System (CERCLIS) is a database that contains information on the location of over 30,000 Superfund hazardous waste sites. In addition, for sites included in the National Priority List (NPL), the database contains information on pre-remedial actions such as the discovery data and preliminary assessment, site inspection and the date of final hazardous ranking determinations (<http://www.epa.gov/enviro/html/hazard.html#Superfund>);
- The Aerometric Information Retrieval System (AIRS) is a computer-based repository for information about air pollution in the United States. AIRS contains information on air releases by various stationary sources of air pollution, such as power plants and factories, and provides information about the criteria air pollutants that they produce. In AIRS, these sources are known as facilities, and the part of AIRS containing data about sources is called the AIRS Facility Subsystem, or AFS (<http://www.epa.gov/enviro/html/air.html>);
- The Permit Compliance System (PCS) provides information on companies which have been issued permits to discharge waste water into water bodies (<http://www.epa.gov/enviro/html/water.html>);
- Risk management plans (describing potential accidental releases) are available for approximately 1500 facilities. ([http://www.epa.gov/9966/srmpdcd/owa/overview\\$.startup](http://www.epa.gov/9966/srmpdcd/owa/overview$.startup))

Efforts to collect comprehensive information about sources of contaminants in particular geographic areas include:

- The total maximum daily load (TMDL) program develops inventories of water emissions of contaminants from a variety of sources, both point and non-point, to develop and allocate watershed-based emission limits (<http://www.epa.gov/OWOW/tmdl/index.html>), and has developed software for

building, maintaining and displaying source inventories called BASINS (<http://www.epa.gov/ost/BASINS/>);

- The EPA Office of Groundwater and Drinking Water source water protection program (<http://www.epa.gov/safewater/protect.html>) provides a drinking water contaminant source index (<http://www.epa.gov/OGWDW/swp/intro4.html>), including a list of potential contaminant source inventory tools (<http://www.epa.gov/safewater/protect/feddata/inventory.html>); and
- The National Air Toxics Assessment program of EPA's Office of Air Quality Planning and Standards is developing updated 1996 comprehensive air toxics emissions information from a variety of sources for release in 2000 (<http://www.epa.gov/ttnuatw1/urban/nata/natapg.html>).

The following information may be helpful to locate additional data about ambient environmental monitoring levels, and facilities which provide drinking water:

- The Safe Drinking Water Information System/Federal version (SDWIS/FED) is a database storing information about the nation's drinking water. SDWIS/FED stores identification, violation and follow up actions for approximately 175,000 public water systems (http://www.epa.gov/enviro/html/sdwis/sdwis_ov.html);
- The National Contaminant Occurrence Database (NCOD) provides raw data on occurrences of physical, chemical, microbial and radiological contaminants from both Public Water Systems and other sources (<http://www.epa.gov/ncod/>);
- The Storage and Retrieval of Water-Related Data System (STORET), which contains information about the chemical, physical, and biological characteristics of ambient water monitoring data as well as select ground water and surface water data. States, Regions, local governments, Tribal groups, commissions, other Federal Agencies, and volunteer groups provide the information to EPA, which can be retrieved by written request. (<http://www.epa.gov/reisite1/flshcard/storet.htm>); and
- The AIRS Air Quality Subsystem (AQS), which contains data on levels of criteria pollutants from air quality monitoring stations throughout the U.S. AQS reports show summaries of the prevailing levels of air pollution from specific monitoring sites, and maps can display the locations of monitoring stations and non-attainment areas. (<http://www.epa.gov/airsdata/monitors.htm>).

Many other sets of data, guidelines, and assessment tools exist both within and outside EPA. Therefore, the list above is in no way intended to be comprehensive. Instead it provides some introductory information as an initial starting point in developing information about these resources.

b. Potential Steps for Conducting Adverse Disparate Impact Analyses

You may consider including the following steps when conducting an adverse disparate impact analysis and refer to section VI of the *Draft Revised Investigation Guidance* for more detailed guidance on how to conduct the steps below:

1. *Define Scope:* Review community concerns and available data, determine which other relevant sources of stressors, if any, should be included in the analysis, and develop a project plan.
2. *Impact assessment:* Determine whether the activities of the permitted entity at issue, either alone or in combination with other relevant sources, cause one or more impacts and develop measure(s) of the magnitude and likelihood of occurrence.
3. *Adverse impact decision:* Determine whether the impact(s) are sufficiently adverse to be considered significant.
4. *Characterize populations and conduct comparisons:* Determine the characteristics of the affected population, and conduct an analysis to determine whether a disparity exists between the affected population and an appropriate comparison population in terms of race, color, or national origin, and adverse impact.
5. *Adverse disparate impact decision:* Determine whether the disparity is significant.

c. Availability of Tools and Methodologies for Conducting Adverse Impact Analyses

Analytical tools are available for conducting impact analyses for a particular permit application or for a particular area of concern. These analytical tools have limitations given the state of the science in assessing risks from multiple stressors and exposure pathways. You should use the best available tools for conducting analyses to identify potential adverse impacts. Peer reviewed tools and methodologies are the most credible.

Geographically detailed estimates of risks or other measures of impact are the most useful in assessing adverse disparate impacts because they often provide a clearer connection between sources, stressor, and impacts. However, producing these estimates or measures can require significant resources. Moreover, in some contexts, less detailed methods or measures can be as useful. For example, ambient risks may often be directly proportional to release amounts and toxicity of the stressors.¹⁵ As a result, by examining the amount and toxicity of stressors coming

¹⁵ Estimations of risk or other measures of impact are also likely to be dependent on many other factors such as environmental conditions, stressor characteristics and interactions, exposure pathways, and receptor population characteristics.

from the relevant source(s), it is often possible to identify sources or combinations of sources that have a higher likelihood of being associated with adverse disparate impacts.

When designing, selecting, and using adverse impact methodologies, you should consider the following:

- Availability of tools, resources, and training to evaluate risks (both from single and multiple stressors);
- Best available data concerning sources, stressors, and ambient conditions;
- Availability of a threshold of potential concern for assessing the adversity of the impacts; and
- The capacity of the assessment method to identify who may be adversely impacted.

One tool which is likely to be useful is a geographic information system (GIS), which allows users to manage, analyze, and display integrated data, such as source locations, ambient conditions derived from monitoring or modeling, and potentially impacted populations. Many organizations have found GIS useful in environmental impact analyses. GIS is not, however, a specific demographic or impact analysis method. Instead, GIS software can be used to perform a range of analyses and produce maps and other display products that are effective means of communicating the findings and facilitating public participation. For example, GIS is useful in overlaying data regarding adverse impacts on maps that display population data.

Many organizations are using GIS to produce integrated geographically-focused inventories of sources, which can be analyzed and displayed in conjunction with population receptor information as one type of initial focusing tool. Although such efforts do not necessarily agree completely with the results of more sophisticated analyses, many users are exploring how they can be used to help set priorities and identify areas of possible concern, which can help target outreach and further studies, such as the creation of more comprehensive data on sources and stressors. Also, while such approaches would rarely be used to indicate areas with adverse impacts, they may be useful in identifying communities in which to conduct area-specific Title VI approaches, or selecting permit decisions for further investigation in a case-by-case approach.

d. Relevant Data

Generally, all readily available and relevant data should be used to conduct adverse impact assessments. Data may vary in completeness, reliability, and geographic relevance to the assessment area. You should evaluate available data and place the greatest weight on the most reliable data. The following data, in approximate order of preference, could be used for assessments:

- Ambient monitoring data;
- Modeled ambient concentrations;

- Known emissions or other release of a pollutant or stressor;
- Production, use or storage of quantities of pollutants; and
- Presence of sources or activities associated with potential exposures.

Additional sources of information on tools and databases for conducting an adverse disparate impact analysis include:¹⁶

- An introduction to risk assessment concepts contained in the brochure, *Air Pollution and Health Risk* (http://www.epa.gov/oar/oaqps/air_risc/3_90_022.html);
- The Office of Civil Rights Web page on investigative methods contains background information provided to the Science Advisory Board (SAB) regarding possible disproportionate impact methodologies (<http://www.epa.gov/civilrights/investig.htm>);
- The SAB December 1998 report¹⁷ on its review of EPA's adverse disparate impact methodologies is available at the Office of Civil Rights Web site (in Acrobat pdf format) at (<http://www.epa.gov/civilrights/investig.htm>); and
- The Cumulative Exposure Project is developing methods for evaluating the combined exposures to multiple pollutants through three different pathways – air, food, and drinking water. The goal is to examine the cumulative impacts of multiple pollutants and to determine the important contributors to cumulative exposures. Initial results for 1990 modeled ambient air concentrations are available from the EPA Web site at: <http://www.epa.gov/cumulativeexposure/>, with a cautionary note on the applicability of the results to current local conditions at <http://www.epa.gov/cumulativeexposure/air/intrair.htm>. As part of its National Air Toxics Assessments, EPA is using this same model, updated with 1996 data for 33 priority air toxics, and plans to release the modeled ambient air concentrations in Spring 2000. These data will also be used to model exposure estimates, which will be available later in 2000.

e. Resources for Assessing Significance of Impact

Assessing the significance of a risk or measure of impact involves legal, policy, and scientific considerations. Various environmental and health programs have used a range of values for determining regulatory or public health protection levels over time. Generally, the risk or measure of impact should first be evaluated and compared to benchmarks provided under relevant environmental statutes, regulations or policies. Where those risks meet or exceed a

¹⁶ See *Draft Revised Investigation Guidance*, section VI (regarding how EPA expects to conduct an adverse disparate impact analysis in a complaint investigation).

¹⁷ *An SAB Report: Review of Disproportionate Impact Methodologies; A Review by the Integrated Human Exposure Committee (IHEC) of the Science Advisory Board (SAB).*

significance level as defined by law, policy or science, the measure of impact would likely be recognized as adverse in a Title VI approach.

In some cases, the relevant environmental laws may not identify regulatory levels for the risks of the health impact of concern. For example, an impact may result from cumulative or other risk of effects from multiple environmental exposure media. In such cases, you may consider whether any scientific or technical information indicates that those impacts should be recognized as significantly adverse under Title VI. This evaluation would need to take into account considerations such as policies developed for single stressors or sources without explicit consideration of cumulative contributions and uncertainties in estimates.

f. Conducting Disparity Analyses and Assessing Significance

As part of the adverse impact, one method of identifying an affected population would involve assessing the distribution of adverse impacts in the environment, and associating populations with them.¹⁸ Where this method is infeasible, estimating affected populations based on proximity to sources may provide initial estimates for assessment. You may wish to also attempt to assess the demographic characteristics of the potentially affected population. In many cases, this will involve associating the impact assessment results with data from the 1990 (or later)¹⁹ U.S. Census, which is readily available at a detailed level of geography. The residential census data includes population characteristics such as language spoken at home and degree of English fluency. This information will likely be helpful to you in determining when limited English proficiency might be an issue for outreach and public participation efforts.

Another element of this step involves a disparity analysis that compares the affected population to a comparison population to determine to what degree a disparity exists. EPA expects that appropriate comparison populations will be decided on a case-by-case basis. You could consider the situation in communities and/or permitting decisions together with the types of impacts. Generally, relevant comparison populations would be drawn from those who live within a reference area such as your jurisdiction (*e.g.*, an air district, a state), a political jurisdiction (*e.g.*, city, county). For example, where a complaint alleges that Asian Americans throughout a state bear adverse disparate impacts from permitted sources of water pollution, an appropriate reference area would likely be the state. Another potentially appropriate area might be one defined by environmental criteria, such as an airshed or watershed. Comparison populations should usually be larger than the affected population, and may include the general population for the reference area (*e.g.*, a county or state population which includes the affected

¹⁸ See *Draft Revised Investigation Guidance*, section VI.B.5. (discussing how EPA expects to conduct disparity analyses in Title VI investigations).

¹⁹ In 2000, the most current geographically detailed U.S. Census information is from the 1990 U.S. Census. Information from the 2000 U.S. Census will not be available until 2001.

population) or the non-affected population for the reference area (*e.g.*, those in the reference area which are not part of the affected population).

A disparity may be assessed using comparisons both of the different prevalence of race, color, or national origin of the two populations, and of the level of risk of adverse impacts experienced by each population. You may wish to conduct comparisons of demographic characteristics, such as the composition of an affected population to that of a non-affected population or general population;²⁰ and/or the probability of different demographic groups (*e.g.*, African Americans, Hispanics, Whites) in a surrounding jurisdiction being in an affected population or a highly affected portion of it.²¹ In conjunction with comparisons of demographic characteristics between populations, you may also wish to compare the level of risk or other measure of potential adverse impacts between populations. These comparisons might include the average²² or range of risks for demographic subgroups of the general population or between an affected population and the general population.

Measures of the demographic disparity between an affected population and a comparison population would normally be statistically evaluated to determine whether the differences achieved statistical significance to at least 2 to 3 standard deviations. The purpose of this review is to minimize the chance of a false measurement of difference where none actually exists (*e.g.*, because of an inherent variability of the data). In your analysis, you may also wish to consider the demographic disparity measures and their results in the context of several related factors, such as the size of the affected population, the proportion of a jurisdiction's total population within an affected population, and the demographic composition of the general comparison population.

The determination of what level(s) of disparity that can be considered significant should take into account the nature of the decision being made (*e.g.*, allocation of resources, triggering further action); the type of disparity comparison; the consistency of results between multiple comparisons; and underlying data quality. In many instances, you should consider both the

²⁰ See, *e.g.*, *Draft Revised Demographic Information, Title VI Administrative Complaint re: Louisiana Department of Environmental Quality/Permit for Proposed Shintech Facility*, April 1998 (*Shintech Demographic Information, April 1998*), Facility Distribution Charts D1 through D40 found at <http://www.epa.gov/civilrights/shinfileapr98.htm>, files t-d01-10.pdf, t-d11-20.pdf, t-d21-30.pdf, t-d31-40.pdf.

²¹ See, *e.g.*, *Shintech Demographic Information, April 1998*, the last column in Tables A1 through B7 found at <http://www.epa.gov/civilrights/shinfileapr98.htm>, table-a1.pdf through table-b.7.pdf.

²² See, *e.g.*, *Shintech Demographic Information, April 1998*, last column in Tables C1 through C5 found at <http://www.epa.gov/civilrights/shinfileapr98.htm>, table-c1.pdf through table-c5.pdf.

degree of disparity of population composition with the degree of disparity of estimated level of adverse impact.²³

4. Encourage Intergovernmental Involvement

Bringing all agencies and parties together that may contribute to both the problems and the solutions is one effective way to reach innovative and comprehensive resolutions. You may not have the authority, resources, or expertise to address all of the elements that may contribute to the issues of concern to the community. For example, you may not have authority over zoning or traffic patterns. Including community representatives and the permit applicant in discussions regarding Title VI concerns and resolutions can be an important part of this process. The earlier you identify all appropriate parties, including other governmental agencies, and bring them into the process, the greater the likelihood that you will reach effective solutions.

5. Participate in Alternative Dispute Resolution

The ability to address identified or potential adverse impacts is critical to resolving problems that may form the basis for a Title VI complaint. The handling of Title VI concerns through the formal administrative process can consume a substantial amount of time and resources for all parties involved. Therefore, EPA strongly encourages you to use alternative dispute resolution (ADR) techniques to address concerns regarding adverse and disparate impacts from the issuance of permits. EPA expects that recipients with the ability to engage in ADR with affected communities and permit applicants are the most likely to have success in informally resolving these types of issues.

ADR is a collaborative effort to design and implement a process leading to an outcome acceptable to all parties. If you use ADR to address some Title VI concerns you may choose to review the recommendations in section II.B.2. of this guidance about effective public participation. Providing early, inclusive and meaningful public participation during the ADR process will help to ensure that the agreement reached through ADR provides solutions to reduce or eliminate: (1) discriminatory human health, environmental, or other effects resulting from the issuance of permits; and/or (2) discrimination during the public participation process associated with the permitting process. Usually, an experienced third party (a “neutral”) facilitates the process. The neutral would work with each of the parties to develop a mutually agreeable process.

There are several possible approaches to consider when developing an ADR process:

- **Dialogue** -- Facilitated conversations for improving understanding and relationships;

²³ See *Draft Revised Investigation Guidance*, section VI.B.6. (discussing how EPA expects to assess the significance of disparity in Title VI investigations).

- **Consensus-Building** -- An informal, but structured process through which parties can participate in shared learning and creative problem-solving; and
- **Mediation** -- A third party neutral, with no decision-making authority, helps all parties reach a voluntary negotiated settlement of their issues.

Three common elements of all these approaches include:

- Shared responsibility for the parties to find a resolution that can satisfy their important concerns;
- Voluntary resolutions that are not developed and imposed by an external authority; and
- A neutral environment where parties express their concerns and views in a neutral environment.

Often resolution through ADR results in new understandings of and innovative ideas to address issues of concern. It is also particularly helpful in building better relationships that may be important for future interactions between the parties.

Resources available to help you with informal dispute resolution include:

- The U.S. Institute for Environmental Conflict Resolution, located at Suite 3350, 110 S. Church Avenue, Tucson, Arizona 85701 (telephone: 520-670-5529, Web site: <http://www.ecr.gov>).
- *Alternative Dispute Resolution: A Resource Guide*. This guide, written by the U.S. Office of Personnel Management (OPM), provides an overall picture of how the most common forms of ADR are being implemented in Federal agencies. It summarizes a number of current ADR programs, and it includes descriptions of shared neutrals programs where agencies have collaborated to reduce the costs of ADR. It also provides a listing of training and resources available from Federal and non-Federal sources along with selected ADR-related Web sites. The document may be downloaded from the OPM Web site. <http://www.opm.gov/er/adrguide/adrhome.html.ssi>); and
- Various States have offices of dispute resolution that can provide information and resources.

6. Reduce or Eliminate Alleged Adverse Disparate Impact

EPA believes that cooperative efforts between permitting agencies and communities, whether or not in the context of Title VI-related approaches, frequently offer the best means of addressing potential problems. Efforts that focus on all contributions to the disparate impact, not just the permit at issue, will likely yield the most effective long-term solutions. It will be a rare situation where the permit which triggered the complaint is the sole reason a discriminatory effect exists.

The Agency expects that remedial measures that reduce or eliminate alleged disparate impacts will be an important focus of the informal resolution process.²⁴ You can offer to provide various forms of remediation, including remedial measures that are narrowly tailored toward sources using your existing permitting authorities. Alternatively or in addition, you can propose broader remedial measures that are outside those considerations ordinarily considered in the permitting process. Before selecting a remedial measure, analyze and compare all potential remedial measures. Remediation may take many forms, including:

- Changes in policies or procedures;
- Pollution reduction;
- Pollution prevention;
- Environmental remediation (e.g., lead abatement);
- Emission offsets;
- Emissions caps for geographic areas of concern;
- Emergency planning and response measures; and
- Measures to promote equality in monitoring and enforcement.

The EPA *Supplemental Environmental Projects (SEPs) Policy* is a source of information for recipients on remedial options and procedures. SEPs are environmentally beneficial projects that may be part of a settlement of environmental enforcement cases. The EPA SEP Policy also contains a section on community input which may be especially useful guidance for involving the public in the development of remedial measures to address potentially disparate impacts. A copy of EPA's SEPs policy is available through the National Service Center for Environmental Publications (*see* reference section for address) and is also available at <http://www.epa.gov/oeca/sep/>.

7. Evaluate Title VI Activities

You may decide to evaluate your Title VI approach or Title VI activities to identify areas in need of improvement. For example, if you choose to develop a public participation program, you may wish to collect and analyze feedback from communities and businesses. In which case, it would be important to give communities and businesses the necessary information to provide appropriate feedback. The ability to effectively evaluate any approach or activity is based primarily on information and resource availability. If you choose to evaluate your Title VI approach or activities, you should also consider data quality when choosing an evaluation method. One resource on program evaluation is *Practical Evaluation for Public Managers, Getting The Information You Need* by the Department of Health and Human Services, Office of the Inspector General (*see* reference section for address).

²⁴ For a more detailed discussion of measures to reduce or eliminate adverse disparate impact, see section IV.B. of the *Draft Revised Investigation Guidance*.

C. Due Weight

As recipients, many of you have asked EPA to provide “incentives” for you to develop proactive Title VI-related approaches. In particular, some of you have asked EPA to recognize, and to the maximum extent possible, rely on the results of any such approaches in assessing complaints filed with EPA. While EPA encourages efforts to develop proactive Title VI approaches, under the Civil Rights Act of 1964, EPA is charged with assuring compliance with Title VI. Thus, EPA cannot completely defer to a recipient’s own assessment that it has not violated Title VI or EPA’s regulations and cannot rely entirely on an assertion that a Title VI approaches has been followed.²⁵ In addition, EPA cannot delegate its responsibility to enforce Title VI to its recipients. Thus, with regard to the processing of Title VI complaints, EPA retains the:

- ability to supplement the recipient’s analysis or to investigate the issues de novo;
- approval authority over any proposed resolution; and
- ability to initiate its own enforcement actions and compliance reviews.

Nevertheless, EPA believes that it can, under certain circumstances, recognize the results of analyses you submit and give them appropriate due weight.²⁶ For example, if you adopt any of the individual Title VI activities discussed above, and during the course of an investigation you seek to submit the results of those activities as evidence that you have not violated EPA’s Title VI regulations, EPA will review the activity and the results to determine how much weight to give the submission in its investigation.

You may seek to conduct your own evaluation of whether a disparate impact exists and submit it to EPA. These evaluations should at a minimum generally conform to accepted scientific approaches. They may focus on a spectrum of potential adverse impacts, such as described in the analytical framework set forth in section II.B.3. above, or may be more focused, such as the impact of a specific pollutant on nearby populations (*e.g.*, a study regarding the impact of lead emissions on blood lead levels in the surrounding area). The weight given any

²⁵See 28 CFR 50.3(b) (“Primary responsibility for prompt and vigorous enforcement of Title VI rests with the head of each department and agency administering programs of Federal financial assistance.”); Memorandum from Bill Lann Lee, Acting Assistant Attorney General, U.S. Department of Justice, to Executive Agency Civil Rights Directors (Jan. 28, 1999) (titled *Policy Guidance Document: Enforcement of Title VI of the Civil Rights Act of 1964 and Related Statutes in Block Grant-Type Programs*) (“It is important to remember that Federal agencies are responsible for enforcing the nondiscrimination requirements that apply to recipients of assistance under their programs.”).

²⁶ For more information on how OCR plans to determine the appropriate amount of due weight to give to evidence or information submitted by recipients, see section V.B. of the *Draft Revised Investigation Guidance*.

evidence related to the level or existence of adverse impacts and the extent to which OCR may rely on it in its decision will likely vary depending upon:

- relevance of the evidence to the alleged impacts;
- the validity of the recipient's methodologies;
- the completeness of the documentation that is submitted by the recipient;
- the degree of consistency between the methodology used and the findings and conclusions; and
- the uncertainties of the input data and results.

Consequently, submitted materials would be subject to scientific review by EPA experts.

OCR expects to give more weight to submitted analyses that are relevant to the Title VI concerns in the complaint and have sufficient scope, completeness, and accuracy. If the analyses submitted meet the factors above, OCR will not seek to duplicate or conduct such analyses, but instead will evaluate the appropriateness and validity of the relevant methodology and assess the overall reasonableness of the outcome or conclusions at issue.

If OCR's review reveals that the evidence contains significant deficiencies with respect to the factors above, then the analysis will likely not be relied upon in OCR's decision. If these factors are met, then OCR will likely rely on the evidence in its investigation. In the instance where a submitted analysis that shows no adverse disparate impact exists, and the analysis generally follows the steps in section II.B.3.b. of this document and meets the factors described above, then OCR may rely on it in a finding that the recipient is in compliance with EPA's Title VI regulation.

Some recipients may develop procedures for their permitting program that meet certain criteria designed to ensure a nondiscriminatory public participation process. OCR expects to give due weight to the public participation program if:

- the criteria that formed the basis for the program were sufficient to ensure a nondiscriminatory process;
- your overall permitting process met those criteria; and you followed your program for the relevant case.

An example of a public participation process that meets these steps would be one that followed the guidelines for the EPA Brownfields Assessment Demonstration Pilot projects. A copy of *The Brownfields Economic Redevelopment Initiative Proposal Guidelines for Brownfields Assessment Demonstration Pilots* is available through the National Service Center for Environmental Publications (*see* reference section for address) and is also available at <http://www.epa.gov/swerosps/bf/html-doc/apappg00.htm#guide>.

EPA also intends to consider other available information, including information submitted by complainants when investigating Title VI complaints. If EPA's review reveals that the activity or analyses does not meet the criteria above, then EPA will likely not rely on the evidence in its decision. If EPA finds that the activity, whether it is a public participation process, disparate impact analysis, the results of an area-specific agreement, or other activity, is an acceptable approach to ensure nondiscrimination, EPA would generally rely upon this finding in subsequent decisions. Consequently, OCR would generally dismiss future allegations related to issues covered by the activity, unless there is an allegation or information revealing that circumstances had changed substantially such that the activity is no longer adequate or that it is not being properly implemented.

III. CONCLUSION

This guidance recommends an approach to Title VI that focuses on recipients identifying areas of concern and addressing potential adverse impacts by implementing preventative activities or approaches. It also indicates EPA's objective of lending clarity to the process by providing due weight to a recipient's appropriate analytical efforts that assess and resolve disparate impact claims. This approach recommends community involvement at the beginning of the permitting process and collaboration at all levels of government to find innovative, cost-effective ways to reduce adverse disparate impacts. EPA believes that such an approach will enable potentially adversely impacted communities to be involved in the permit process in a meaningful manner, while also providing state and local decision-makers and businesses sufficient clarity regarding the Title VI process.

IV. ACRONYMS AND ABBREVIATIONS

ADR	-	Alternative Dispute Resolution
AIRS	-	Aerometric Information Retrieval System
ASTM	-	American Society for Testing and Materials
BASINS	-	Better Assessment Science Integrating Point and Nonpoint Sources
CERCLIS	-	Comprehensive Environmental Response Compensation and Liability Information System
CFR	-	Code of Federal Regulations
ECOS	-	Environmental Council of States
EPA	-	United States Environmental Protection Agency
FRDS	-	Federal Reporting Data System
GIS	-	Geographic Information Systems
HHS	-	Department of Health and Human Services
NACEPT	-	National Advisory Council for Environmental Policy and Technology
NEJAC	-	National Environmental Justice Advisory Council
OCR	-	EPA's Office of Civil Rights
PCS	-	Permit Compliance System
PLAN	-	Plain Language Action Network
RCRA	-	Resource Conservation and Recovery Act
RCRIS	-	Resource Conservation and Recovery Information System
SAB	-	Science Advisory Board
SDWIS/FED	-	Safe Drinking Water Information System/Federal version
SEP	-	Supplemental Environmental Projects
STORET	-	Storage and Retrieval of Water-Related Data System
TRI	-	Toxics Release Inventory
TRIS	-	Toxics Release Inventory System

V. REFERENCES

- ASTM, 1998, *ASTM E 1984 - 98, Standard Guide to the Process of Sustainable Brownfields Redevelopment*, American Society for Testing and Materials, Environmental Risk Management/Sustainable Development/Pollution Prevention Subcommittee (For more information on this standard, contact ASTM at 610-832-9585. (The ASTM Web site location is <http://www.astm.org>).
- ECOS, 1998, *Proposed Elements of Environmental Justice Programs, Draft*, October 9, 1998, Environmental Council of States, Washington, DC (For more information on this draft document, contact ECOS at 444 North Capitol Street, N.W., Suite 305, Washington, DC 20001 or call 202-624-3660 (The ECOS Web site is <http://www.sso.org/ecos>).
- EPA, 1999, *The Brownfields Economic Redevelopment Initiative Proposal Guidelines for Brownfields Assessment Demonstration Pilots*, October 1999. (A copy of the guidelines is available through the National Service Center for Environmental Publications, P.O. Box 42419, Cincinnati, OH 45242-2419 or call 800-490-9198 and is available at <http://www.epa.gov/swerosps/bf/html-doc/apappg00.htm#guide>).
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- HHS, 1994, *Practical Evaluation for Public Managers, Getting The Information You Need*, Department of Health & Human Services, Office of Inspector General, Washington, DC (For a copy of this book contact the HHS Office of the Inspector General, Office of Evaluation and Inspections at 330 Independence Avenue, S.W., Room 5660, Washington, DC 20201 or call 202-691-0480).
- NACEPT, 1999, *Report of the Title VI Implementation Advisory Committee, Next Steps for EPA, State, and Local Environmental Justice Programs*, April 1999, EPA 1000-4-99-004. (The report is available on the OCR Web site at <http://www.epa.gov/civilrights/t6faca.htm>. However, Appendices 1-3 and A-N are not posted on the OCR Web site, but are available by ordering a paper copy, using a form on the OCR Web site).
- NEJAC, 1996, *The Model Plan for Public Participation*, the Public Participation and Accountability Subcommittee of the National Environmental Justice Advisory Council, A Federal Advisory Committee to the EPA (The OEJ Web site location is <http://es.epa.gov/oeca/main/ej/index.html>).
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- SAB, 1999, *An SAB Report: Review of Disproportionate Impact Methodologies*, A Review by the Integrated Human Exposure Committee (IHEC) of the Science Advisory Board (SAB)", EPA-SAB-99-007, December 1998, United States Environmental Protection Agency, Science Advisory Board, Washington, DC (This SAB report is available in Acrobat pdf format via the OCR Web site at <http://www.epa.gov/civilrights/investig.htm>).

GLOSSARY OF TERMS

The definitions provided in this glossary only apply to the *Draft Title VI Guidance for EPA Assistance Recipients Administering Environmental Permitting Programs* and the *Draft Revised Guidance for Investigating Title VI Administrative Complaints Challenging Permits*, unless a direct citation to the Code of Federal Regulations (CFR) is provided. Please note that underlined words are ones for which definitions are available in this glossary.

<u>Term</u>	<u>Definition</u>
Accuracy	The measure of the correctness of data, as given by the difference between the measured value and the true or standard value.
Adverse Impact	A negative impact that is determined by EPA to be significant, based on comparisons with benchmarks of significance. These benchmarks may be based on law, policy, or science.
Affected Population	A population that is determined to bear an adverse impact from the source(s) at issue.
Ambient Standards	A level of pollutants prescribed by regulations that are not to be exceeded during a given time in a defined area. (e.g., <u>National Ambient Air Quality Standards</u>).
Ambient	Any unconfined portion of a water body, land area, or the atmosphere, such as the open air or the environment surrounding a source.
Attainment Area	An area considered to have air quality as good as or better than the national ambient air quality standards as defined in the Clean Air Act. An area may be an attainment area for one pollutant and a non-attainment area for others. (See also <u>non-attainment area</u>).
Benchmark	A value used as a standard for comparison. Several types used in Title VI investigations include benchmarks of exposure level, risk, and significance. (See also <u>RfC</u> , <u>RfD</u> , <u>threshold</u>)
Brownfields	Abandoned, idled, or under-used industrial and commercial facilities/sites where expansion or redevelopment is complicated by real or perceived environmental contamination. They can be in urban, suburban, or rural areas.
Carcinogen	A chemical or other stressor capable of inducing a cancer response.

<u>Term</u>	<u>Definition</u>
Chronic Toxicity	The capacity of a substance to cause long-term harmful health effects.
Comparison Population	A population selected for comparison with an affected population in determining whether the affected population is significantly different with respect to demographic characteristics or degree of adverse impact.
Criteria Pollutants	The 1970 Clean Air Act (CAA) required EPA to set National Ambient Air Quality Standards for certain pollutants known to be hazardous to human health. EPA has identified and set standards to protect human health and welfare for six pollutants: ozone, carbon monoxide, particulate matter, sulfur dioxide, lead, and nitrogen oxide. The term, "criteria pollutants" derives from the requirement that EPA must describe the characteristics and potential health and welfare effects of these pollutants in "criteria." <i>See</i> CAA section 108.
Cumulative Exposure	Total exposure to multiple environmental <u>stressors</u> (<i>e.g.</i> , chemicals), including exposures originating from multiple <u>sources</u> , and traveling via multiple <u>pathways</u> over a period of time.
Cumulative Impact	The harmful health or other effects resulting from <u>cumulative exposure</u> .
Disparity (Disparate Impact)	A measurement of a degree of difference between population groups for the purpose of making a finding under Title VI. Disparities may be measured in terms of the respective composition (demographics) of the groups, and in terms of the respective potential level of <u>exposure</u> , <u>risk</u> or other measure of <u>adverse impact</u> .
Due Weight	The importance or reliance EPA gives to evidence or agreements to reduce impacts provided by recipients or complainants, depending on a review of relevance, scientific validity, completeness, consistency, and uncertainties. Where evidence or agreements prove to be technically satisfactory, OCR may rely upon that information rather than attempting to duplicate the analysis.
Environmental Council of States (ECOS)	The Environmental Council of States (ECOS) is a national non-partisan, nonprofit association of state and territorial environmental commissioners.

<u>Term</u>	<u>Definition</u>
Exposure	Contact with, or being subject to the action or influence of, environmental <u>stressors</u> , usually through ingestion, inhalation, or dermal contact.
Exposure Pathway	The physical course a chemical or other <u>stressor</u> takes from its source to the exposed <u>receptor</u> (<i>See also</i> <u>Exposure Route</u>).
Exposure Route	The avenue by which a chemical or other <u>stressor</u> comes into contact with an organism (<i>e.g.</i> , inhalation, ingestion, dermal contact).
Exposure Scenario	A set of facts, assumptions, and inferences about how <u>exposure</u> takes place that aids in evaluating, estimating, or quantifying <u>exposures</u> (<i>e.g.</i> , <u>exposure pathway</u> , environmental conditions, time period of exposure, <u>receptor</u> lifetime, average body weight).
Financial Assistance	Any grant or cooperative agreement, loan, contract (other than a procurement contract or a contract of insurance or guaranty), or any other arrangement by which EPA provides or otherwise makes available assistance in the form of: (1) Funds; (2) Services of personnel; or (3) Real or personal property or any interest in or use of such property, including: <ul style="list-style-type: none"> (i) Transfers or leases of such property for less than fair market value or for reduced consideration; and (ii) Proceeds from a subsequent transfer or lease of such property if EPA's share of its fair market value is not returned to EPA. 40 CFR 7.25.
General population	A comparison population that consists of the total set of persons in a jurisdiction or area of potential impact, including an <u>affected population</u> .
GIS (Geographic Information System)	An organized computer system designed to efficiently capture, analyze, and display information in a geographically referenced manner, such as a map. Commonly, GIS is used to produce maps which combine various data and analysis results together, allowing for convenient visual analysis.
Hazard	The degree of potential for a <u>stressor</u> to cause illness or injury in a <u>receptor</u> , or the inherent toxicity of a compound.

<u>Term</u>	<u>Definition</u>
Hazard Index	A summation of <u>hazard quotients</u> for multiple chemicals; a measure of cumulative risk for <u>substances which exhibit a threshold</u> for toxicity.
Hazard Quotient	The ratio of a single substance exposure level to a <u>reference dose or benchmark</u> for that substance. An exposure at the <u>same concentration as the reference dose</u> would have a hazard quotient of 1.
Hazardous Air Pollutant (HAP)	Air toxics which have been specifically listed for regulation under Clean Air Act section 112.
Health Outcome	A measure of disease rate or similar impact, such as age-adjusted cancer death rate.
Impact	In the health and environmental context, a negative or harmful effect on a receptor resulting from <u>exposure</u> to a stressor (<i>e.g.</i> , a case of disease). The likelihood of <u>occurrence</u> and severity of the impact may depend on the magnitude and frequency of exposure, and other factors affecting toxicity and receptor sensitivity.
Informal Resolution	Any settlement of complaint allegations prior to the issuance of a formal finding of noncompliance by EPA.
Measure of Impact	A measure used in evaluating the significance of an impact, which may involve the general likelihood, frequency, rate or number of instances of the occurrence of an impact. (<i>See risk</i> , which is similar, but expressed as a numeric probability of occurrence)
Media or Medium	Specific environmental compartments such as air, water, or soil, that are the subject of regulatory concern and activities.
Mitigation	Measures taken to reduce or eliminate the intensity, severity or frequency of an adverse disparate impact.
Mobile Source	Any non-stationary source of air pollution such as cars, trucks, motorcycles, buses, airplanes, ships or locomotives.
Model/Modeling/Modeled	A set of procedures or equations (usually computerized) for estimating or predicting a value, <i>e.g.</i> , the ambient environmental concentration of a stressor. <i>Also</i> , the act of using a model.

<u>Term</u>	<u>Definition</u>
National Ambient Air Quality Standards (NAAQS)	Standards established by EPA pursuant to Clean Air Act section 109 that apply for outdoor air throughout the country. (<i>See <u>criteria pollutants</u></i>)
New Permit	For the purposes of this guidance, the term “new permits” refers to the initial issuance of any permit, including permits for (1) the construction of a new facility, (2) the continued operation of an existing facility that previously operated without that type of permit, and (3) an existing facility that adds a new operation that would require a new type of permit (<i>e.g.</i> , newly issued water discharge permit), in addition to the facility's existing permits (<i>e.g.</i> , existing air emission permit). (<i>See <u>permit</u></i>).
Non-affected population	The remainder of a <u>general population</u> which is not found to be part of an <u>affected population</u> (<i>e.g.</i> , a county population minus those in an <u>affected population</u>).
Non-Attainment Area	Area that does not meet one or more of the National Ambient Air Quality Standards for the criteria pollutants designated in the Clean Air Act.
Non-Point Source	A diffuse water pollution source (<i>i.e.</i> , without a single point of discharge to the environment). Common non-point sources include agricultural, forestry, mining, or construction areas, areas used for land disposal, and areas where collective pollution due to everyday use can be washed off by precipitation, such as city streets. (<i>See also <u>point source</u></i>).
Noncompliance	A finding by EPA that a recipient’s program or activities do not meet the requirements of EPA’s Title VI implementing regulations.
Offsets	A concept whereby emissions from proposed new or modified stationary sources are balanced by reductions from existing sources to stabilize total emissions.
Pathway (exposure)	The physical course a chemical or other stressor takes from its source to the exposed <u>receptor</u> (<i>See also <u>Exposure Route</u></i>).

<u>Term</u>	<u>Definition</u>
Pattern (of disparate impact)	An allegation or finding that multiple sources of a certain type are consistently associated with likely adverse impacts to a protected group.
Permit	An authorization, license, or equivalent control document issued by EPA or other agency to implement the requirements of an environmental regulation (<i>e.g.</i> , a permit to operate a wastewater treatment plant or to operate a facility that may generate harmful emissions).
Plain Language Action Network	Plain Language Action Network (PLAN) is a government-wide group working to improve communications from the federal government to the public.
Point Source	A stationary location or fixed facility from which pollutants are discharged; any single identifiable source of a stressor (<i>e.g.</i> , a pipe, ditch, small land area, pit, stack, vent, building).
Pollution Prevention	The practice of identifying areas, processes, and activities that create excessive waste products or stressors, and reducing or preventing them from occurring through altering or eliminating a process or activity.
Potency factor	A measure of the power of a toxic <u>stressors</u> to cause harm at various levels of <u>exposure</u> (sometimes based on the slope of a dose-response curve), or above a single specific value.
Receptor	An individual or group that may be exposed to <u>stressors</u> .
Recipient	Any state or its political subdivision, any instrumentality of a state or its political subdivision, any public or private agency, institution, organization, or other entity, or any person to which Federal financial assistance is extended directly or through another recipient, including any successor, assignee, or transferee of a recipient, but excluding the ultimate beneficiary of the assistance. 40 CFR 7.25.
Reference area	An area from which one or more comparison populations are drawn for conducting a disparity analysis.
Reference dose	<i>See</i> <u>RfC</u> and <u>RfD</u> .

<u>Term</u>	<u>Definition</u>
Release	The introduction of a <u>stressor</u> to the environment, where it may come in contact with <u>receptors</u> . Includes, among other things, any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, or disposing into the environment.
RfC (inhalation reference concentration)	An estimate (with uncertainty spanning perhaps an order of magnitude) of the daily <u>exposure</u> of the human population to a chemical, through <u>inhalation</u> , that is likely to be without risk of harmful effects during a lifetime.
RfD (oral reference dose)	An estimate (with uncertainty spanning perhaps an order of magnitude) of the daily <u>exposure</u> of the human population to a chemical, through <u>ingestion</u> , that is likely to be without risk of harmful effects during a lifetime.
Risk	A measure of the probability that damage to life, health, property, and/or the environment will occur as a result of a given hazard. In quantitative terms, risk is often expressed in values ranging from zero (representing the certainty that harm will not occur) to one (representing the certainty that harm will occur). The following are examples showing the manner in which cancer risk is expressed: E-4 = $1 \text{ in } 10^{-4}$, or a risk of 1 in 10,000; E-5 = a risk of 1/100,000; E-6 = a risk of 1/1,000,000. Similarly, $1.3\text{E-}3$ = a risk of $1.3/1000 = 1 \text{ chance in } 770$.
Risk Assessment	Qualitative and quantitative evaluation of the risk posed to human health and/or the environment by the actual or potential presence and/or use of specific <u>stressors</u> . This involves a determination of the kind and degree of <u>hazard</u> posed by a stressor (<i>e.g.</i> , <u>toxicity</u>), the extent to which a <u>particular</u> group of people has been or may be exposed to the agent, and the present or potential health risk that exists due to the agent.
Science Advisory Board (SAB)	A group of external scientists who advise EPA on science and policy.
Significant	A determination that an observed value is sufficiently large and meaningful to warrant some action. (<i>See</i> <u>statistical significance</u>).

<u>Term</u>	<u>Definition</u>
Source	The site, facility, or origin from which one or more environmental stressors originate (<i>e.g.</i> , factory, incinerator, landfill, storage tank, field, vehicle)
Statistical significance	An inference that there is a low probability that the observed difference in measured or estimated quantities is due to variability in the measurement technique, rather than due to an actual difference in the quantities themselves.
Stressor	Any factor that may adversely affect <u>receptors</u> , including chemical (<i>e.g.</i> , <u>criteria pollutants</u> , toxic contaminants), physical (<i>e.g.</i> , noise, extreme temperatures, fire) and biological (<i>e.g.</i> , disease pathogens or parasites). Generally, any substance introduced into the environment that adversely affects the health of humans, animals, or ecosystems. Airborne stressors may fall into two main groups: (1) those emitted directly from identifiable sources and (2) those produced in the air by interaction between chemicals (<i>e.g.</i> , most ozone).
Threshold	The dose or <u>exposure</u> level below which an adverse impact is not expected. Most carcinogens are thought to be non-threshold chemicals, to which no exposure can be presumed to be without some risk of contracting the disease.
Toxicity	The degree to which a substance or mixture of substances can harm humans or animals. (<i>See</i> <u>chronic toxicity</u>)
Unit risk factor	A measure of the power of a toxic <u>stressor</u> to cause cancer at various levels of <u>exposure</u> (based on the slope of a dose-response curve, combined with an <u>exposure scenario</u>).
Universe of Sources	A category of relevant and/or nearby sources of similar <u>stressors</u> to those from the permitted activity included in assessments of potential <u>adverse disparate impacts</u> .
Voluntary Compliance	Settlement between EPA and a recipient after a formal finding of noncompliance.